

§ 155.505

any eligibility determination or redetermination contained in a notice issued in accordance with §§ 155.310(g), 155.330(e)(1)(ii), 155.335(h)(1)(ii), 155.610(i), or 155.715(e) or (f), reviewed by an appeals entity.

Appeals entity means a body designated to hear appeals of eligibility determinations or redeterminations contained in notices issued in accordance with §§ 155.310(g), 155.330(e)(1)(ii), 155.335(h)(1)(ii), 155.610(i), or 155.715(e) and (f).

Appellant means the applicant or enrollee, the employer, or the small business employer or employee who is requesting an appeal.

De novo review means a review of an appeal without deference to prior decisions in the case.

Evidentiary hearing means a hearing conducted where evidence may be presented.

Vacate means to set aside a previous action.

§ 155.505 General eligibility appeals requirements.

(a) *General requirements.* Unless otherwise specified, the provisions of this subpart apply to Exchange eligibility appeals processes, regardless of whether the appeals process is provided by a State Exchange appeals entity or by the HHS appeals entity.

(b) *Right to appeal.* An applicant or enrollee must have the right to appeal—

(1) An eligibility determination made in accordance with subpart D, including—

(i) An initial determination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, made in accordance with the standards specified in § 155.305(a) through (h); and

(ii) A redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, made in accordance with §§ 155.330 and 155.335;

(2) An eligibility determination for an exemption made in accordance with § 155.605;

(3) A failure by the Exchange to provide timely notice of an eligibility determination in accordance with

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§§ 155.310(g), 155.330(e)(1)(ii), 155.335(h)(1)(ii), or 155.610(i); and

(4) A denial of a request to vacate dismissal made by a State Exchange appeals entity in accordance with § 155.530(d)(2), made pursuant to paragraph (c)(2)(i) or this section; and

(c) *Options for Exchange appeals.* Exchange eligibility appeals may be conducted by—

(1) A State Exchange appeals entity, or an eligible entity described in paragraph (d) of this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart; or

(2) The HHS appeals entity—

(i) Upon exhaustion of the State Exchange appeals process;

(ii) If the Exchange has not established an appeals process in accordance with the requirements of this subpart; or

(iii) If the Exchange has delegated appeals of exemption determinations made by HHS pursuant to § 155.625(b) to the HHS appeals entity, and the appeal is limited to a determination of eligibility for an exemption.

(d) *Eligible entities.* An appeals process established under this subpart must comply with § 155.110(a).

(e) *Representatives.* An appellant may represent himself or herself, or be represented by an authorized representative under § 155.227, or by legal counsel, a relative, a friend, or another spokesperson, during the appeal.

(f) *Accessibility requirements.* Appeals processes established under this subpart must comply with the accessibility requirements in § 155.205(c).

(g) *Judicial review.* An appellant may seek judicial review to the extent it is available by law.

§ 155.510 Appeals coordination.

(a) *Agreements.* The appeals entity or the Exchange must enter into agreements with the agencies administering insurance affordability programs regarding the appeals processes for such programs as are necessary to fulfill the requirements of this subpart. Such agreements must include a clear delineation of the responsibilities of each entity to support the eligibility appeals process, and must—